

SO ORDERED.

Dated: March 28, 2013



Eddward P. Ballinger Jr.
Eddward P. Ballinger Jr., Bankruptcy Judge

1 **JACKSONWHITE**
2 ATTORNEYS AT LAW
3 *A Professional Corporation*

4 40 North Center Street, Suite 200
5 Mesa, Arizona 85201
6 T: (480) 464-1111 F: (480) 464-5692
7 Attorneys for Debtors and Debtors in Possession Nathan and Jessica LaFlesch
8 By: Kelly G. Black, No. 016376, kblack@jacksonwhitelaw.com
9 centraldocket@jacksonwhitelaw.com

10 **UNITED STATES BANKRUPTCY COURT**
11 **DISTRICT OF ARIZONA**

12 In re:

13 Nathan James LaFlesch and Jessica Ruth
14 LaFlesch,
15 Debtors.

16 **No. 2:11-bk-26569-EPB; Chapter 11**

17 **Order Confirming Chapter 11 Plan of
18 Reorganization**

19 Assigned to: Honorable Eddward P. Ballinger

20 The Court having reviewed the Plan of Reorganization (Doc 62) filed by Nathan James
21 LaFlesch and Jessica Ruth LaFlesch (“Debtors”), together with their Declaration in Support of
22 Confirmation, and having conducted the confirmation hearing and confirmed the plan at the
23 hearing, makes the findings and orders below.

24 **I. Section 1129 Findings**

25 1. The Plan of Reorganization complies with the applicable provisions of Title 11,
26 satisfying the requirements of Section 1129(a)(1).

27 2. Debtors have complied with the applicable provisions of Title 11, satisfying the
28 requirements of Section 1129(a)(2).

29 3. Debtors proposed the Plan in good faith, satisfying the requirements of Section
30 1129(a)(3).

31 4. The Plan meets the requirements of Section 1129(a)(4), requiring court approval
32 for payments to professionals.

1 5. The Plan discloses the Debtors' post -confirmation management in compliance
2 with Section 1129(a)(5).

3 6. The provisions of Section 1129(a)(6) are not applicable in this case.

4 7. The requirements of Section 1129(a)(7) are satisfied with respect to each class.

5 8. The requirements of Section 1129(a)(8) are satisfied with respect to multiple
6 classes, but not with respect to every class.

7 9. The Plan satisfies the requirements of Section 1129(a)(9).

8 10. In compliance with Section 1129(a)(10), Debtors' plan has been accepted by four
9 non-insider classes (Classes 1, 2, 4, and 6), three of which are impaired under the Plan (Classes
10 1, 4, and 6).

11 11. The Court finds that the Plan is feasible and can actually be implemented as
12 proposed, in satisfaction of the requirements of Section 1129(a)(11).

13 12. In compliance with Section 1129(a)(12), the provides that any U.S. Trustee Fees
14 owed on or before the effective date of the Plan will be paid on or before the effective date.

15 13. Section 1129(a)(13) is not applicable to this case.

16 14. Section 1129(a)(14) is not applicable because neither Debtor is subject to a
17 domestic support obligation.

18 15. No holder of an allowed unsecured claim has objected to the confirmation of the
19 plan. Accordingly, Section 1129(a)(15) is not applicable to this case.

20 16. As Debtors are individuals, and not a nonprofit entity, Section 1129(a)(16) is not
21 applicable to this case.

22 17. As detailed above, all of the requirements of Section 1129(a) have been met, other
23 than paragraph (8).

24 18. Debtors have requested confirmation pursuant to Section 1129(b).

25 19. In compliance with Section 1129(b), the Plan does not discriminate unfairly
26 against any non-consenting class, and is fair and equitable with respect to each non-consenting
27 class.

28

1 **II. Orders**

2 IT IS THEREFORE ORDERED confirming the Plan of Reorganization (Doc 62) filed by
3 Debtors Nathan James LaFlesch and Jessica Ruth LaFlesch Plan of Reorganization.

4 IT IS FURTHER ORDERED that this court shall retain jurisdiction over this case to
5 enforce this Order Confirming Plan of Reorganization and as more fully set forth in the Plan
6 provisions dealing with the retention of jurisdiction.

7 IT IS FURTHER ORDERED, pursuant to Section 3.01 of the Plan, that the claim of
8 Deutsche Bank National Trust Company as Trustee for the holders of New Centry Home Equity
9 Loan Trust, Series 2005-A, Asset Backed Pass-Through Certificates (Bank of America, N.A.),
10 Proof of Claim 3, filed by Jeremy T. Bergstrom, secured by a first position deed of trust filed in
11 the records of the Maricopa County Recorder on May 17, 2005 at 2005-0650291 against the real
12 property located at 4067 E. Olney Court, Higley, AZ 85236, n.k.a 4067 E. Olney Street, Gilbert,
13 AZ 85234, and more fully described as follows:

14 LOT 107, OF RANCHO COLLENE, ACCORDING TO THE PLAT OF
15 RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA
16 COUNTY, ARIZONA, RECORDED IN BOOK 562 OF MAPS, PAGE 19.

17 APN: 304-16-670,

18 is allowed as a secured claim in the amount of \$311,157.19. In the absence of an agreed
19 modification, the following shall govern the treatment of the claim:

20 *Cure.* Debtor shall cure any default by paying the pre-petition deficiency
21 of \$18,809.78 in equal monthly payments of \$137.40 commencing on the
22 effective date of this Plan and continuing through month 119 with a final payment
23 of \$2,459.18 in month 120. As of the effective date of this plan, the original
24 maturity of this claim shall be reinstated. The treatment of this claim under the
25 Plan will not otherwise alter the legal, equitable, or contractual rights to which
26 such claimant is entitled.

27 *Lien.* Until payments are completed under the terms of this Plan, this class
28 shall maintain its pre-petition lien. Upon payment in full of the payments
29 provided for this class, Debtor shall be entitled to a release of all pre-petition,
30 post-petition and post-confirmation liens.

31 *Default.* A default with respect to this class shall not constitute a default
32 under the plan with respect to any other class or party in interest.

33 *Pre-Payment.* Debtor will have the right to prepay this secured claim without
34 penalty at any time.

1 If Debtors and the holder of the claim agree on a modification of this claim, the terms of
2 the modification shall be deemed incorporated into the plan and will provide the plan treatment
3 for the claim.

4 IT IS FURTHER ORDERED, pursuant to Section 3.02 of the Plan, that the claim of
5 Rancho Collene Homeowners' Association, secured by rights in the real property located at 4067
6 E. Olney Court, Higley, AZ 85236, n.k.a 4067 E. Olney Street, Gilbert, AZ 85234, and more
7 fully described as follows:

8 LOT 107, OF RANCHO COLLENE, ACCORDING TO THE PLAT OF
9 RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA
COUNTY, ARIZONA, RECORDED IN BOOK 562 OF MAPS, PAGE 19.

10 APN: 304-16-670,

11 will not be allowed as a pre-petition claim or administrative claim through January 11, 2013, as
12 Debtors are current on their obligations. However, confirmation will not affect the Association's
13 rights or the Debtors' obligations under governing Association documents with respect to claims
14 arising after the date of filing this plan. The Plan leaves unaltered the legal, equitable and
15 contractual rights to which the holder of this claim is entitled.

16 IT IS FURTHER ORDERED, pursuant to Section 4.04(a) of the Plan, that the claim of
17 JPMorgan Bank, N.A., Proof of Claim 8, filed by Lindsey Maiolino, secured by a deed of trust
18 filed in the records of the Maricopa County Recorder on October 7, 2005 at 2005-1499131
19 against the real property located at 4067 E. Olney Court, Higley, AZ 85236, n.k.a 4067 E. Olney
20 Street, Gilbert, AZ 85234, and more fully described as follows:

21 LOT 107, OF RANCHO COLLENE, ACCORDING TO THE PLAT OF
22 RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA
COUNTY, ARIZONA, RECORDED IN BOOK 562 OF MAPS, PAGE 19.

23 APN: 304-16-670,

24 is allowed as a general non-priority unsecured claim in the amount of \$152,991.29 although filed
25 as a secured proof of claim. Entry of this order shall have the effect of voiding the deed of trust
26 filed in the records of the Maricopa County Recorder on October 7, 2005 at 2005-1499131. The
27 allowed unsecured claim will be treated as provided in paragraph 3.06 of the Plan.

28

1 IT IS FURTHER ORDERED, pursuant to Section 3.03 of the Plan, that the claim of the
2 Pinal County Treasurer, and of any tax lien certificate holders, for 2008 and 2009 property taxes,
3 secured by a tax lien against the real property located at 12337 North Lang Road, Florence
4 Arizona 85232, and more fully described as follows:

5 SITUATED IN THE COUNTY OF PINAL AND STATE OF ARIZONA: A
6 PORTION OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 5
7 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND
8 MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY
9 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST
10 CORNER OF SAID SECTION 17; THENCE NORTH 00 DEGREES 00
11 MINUTES 45 SECOND EAST, A DISTANCE OF 825.00 FEET; THENCE
12 NORTH 89 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF
13 531.27 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 15 SECONDS
14 WEST, A DISTANCE OF 206.50 FEET TO THE TRUE POINT OF
15 BEGINNING; THENCE NORTH 89 DEGREES 49 MINUTES 38 SECONDS
16 WEST, A DISTANCE OF 266.67 FEET; THENCE NORTH 00 DEGREES 00
17 MINUTES 45 SECONDS WEST, A DISTANCE OF 206.44 FEET THENCE
18 SOUTH 89 DEGREES 50 MINUTES 26 SECONDS EAST, A DISTANCE OF
19 265.70 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 15 SECONDS
20 EAST, A DISTANCE OF 206.50 FEET TO THE TRUE POINT OF
21 BEGINNING. PERMANENT PARCEL NUMBER: 206-07-004U FIRST
22 AMERICAN ORDER NO: 10843651

23 APN: 206-07-004U,

24 Is allowed as a secured claim in the principal amount of \$465.86, plus interest incurring after
25 May 1, 2013. The following shall govern the treatment of the claim:

26 *Interest.* Interest at the fixed rate of 5% per annum shall accrue on the
27 unpaid principal balance of the allowed secured claim from the effective date of
28 this Plan until the allowed secured claim is paid in full.

29 *Payment Schedule.* Within 60 days after the effective date of this Plan, the
30 principal balance of \$465.86 shall be paid in full, together with any interest due.
31 All payments shall be applied first to principal, then to interest.

32 *Lien.* Until payments are completed under this Plan, this class shall
33 maintain its pre-petition lien. Upon payment in full of the payments provided for
34 this class, Debtor shall be entitled to a release of all pre-petition, post-petition and
35 post-confirmation liens.

36 *Default.* A default with respect to this class shall not constitute a default
37 under the plan with respect to any other class or party in interest.

38 *Pre-Payment.* Debtor will have the right to prepay this secured claim
39 without penalty at any time.

40 IT IS FURTHER ORDERED, pursuant to Section 3.04 of the Plan, that the claim of
41 Goldman Sachs Mortgage Company, Proof of Claim 1, filed by Michael B. Shaw, secured by a
42 first position deed of trust on the real property located at 12337 North Lang Road, Florence
43 Arizona 85232, and more fully described as follows:

1 SITUATED IN THE COUNTY OF PINAL AND STATE OF ARIZONA: A
2 PORTION OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 5
3 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND
4 MERIDIAN, PINAL COUNTY, ARIZONA, MORE PARTICULARLY
5 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST
6 CORNER OF SAID SECTION 17; THENCE NORTH 00 DEGREES 00
7 MINUTES 45 SECOND EAST, A DISTANCE OF 825.00 FEET; THENCE
8 NORTH 89 DEGREES 48 MINUTES 47 SECONDS WEST, A DISTANCE OF
9 531.27 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 15 SECONDS
10 WEST, A DISTANCE OF 206.50 FEET TO THE TRUE POINT OF
11 BEGINNING; THENCE NORTH 89 DEGREES 49 MINUTES 38 SECONDS
12 WEST, A DISTANCE OF 266.67 FEET; THENCE NORTH 00 DEGREES 00
13 MINUTES 45 SECONDS WEST, A DISTANCE OF 206.44 FEET THENCE
14 SOUTH 89 DEGREES 50 MINUTES 26 SECONDS EAST, A DISTANCE OF
15 265.70 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 15 SECONDS
16 EAST, A DISTANCE OF 206.50 FEET TO THE TRUE POINT OF
17 BEGINNING. PERMANENT PARCEL NUMBER: 206-07-004U FIRST
18 AMERICAN ORDER NO: 10843651

19 APN: 206-07-004U,

20 is allowed as a secured claim in the amount of \$76,334.14, and as a general unsecured claim in
21 the amount of \$23,616.60. The following shall govern the treatment of the claim:

22 *Interest.* Interest at the fixed rate of 5% per annum shall accrue on the
23 unpaid principal balance of the allowed secured claim from the effective date of
24 this Plan until the allowed secured claim is paid in full.

25 *Payment Schedule.* Beginning on the effective date of this Plan, the
26 balance of \$76,334.14 shall be amortized over a 360 month period in monthly
27 payments of \$409.78. In addition, Debtors shall pay taxes and maintain insurance
28 at their own expense through an escrow account with the holder of the claim in
this class, established on terms consistent with this Plan. All payments shall be
applied first to interest, then to principal.

29 *Lien.* Until payments are completed under this Plan, this class shall
30 maintain its pre-petition lien. Upon payment in full of the payments provided for
31 this class, Debtor shall be entitled to a release of all pre-petition, post-petition and
32 post-confirmation liens.

33 *Default.* A default with respect to this class shall not constitute a default
34 under the plan with respect to any other class or party in interest.

35 *Pre-Payment.* Debtor will have the right to prepay this secured claim
36 without penalty at any time.

37 IT IS FURTHER ORDERED, pursuant to Section 8.02 of the Plan, enjoining all creditors
38 and other parties in interest from commencing or continuing any action, employing any process,
39 or commencing any act, to collect, recover, or offset any such debt, as a liability of the debtor, or
40 from property of the debtor, and from charging late fees, collection fees, or any other penalties,
41 except as provided in the Plan. As to debts which may be discharged, this injunction shall expire
42 on the date an order entered on Debtors' application for discharge under paragraph 8.05 of the

1 Plan becomes final and non-appealable. As to debts which may not be discharged, this injunction
2 shall apply after the term of the Plan only to bar late fees, collection fees, or other penalties
3 which would otherwise arise before that date.

4 IT IS FURTHER ORDERED that the confirmation of this plan does not constitute a
5 discharge of the debts of the debtor, though Debtors may reopen the case for entry of a discharge
6 as set forth in the Plan and in Section 1141(d) of the Bankruptcy Code.

7 IT IS FURTHER ORDERED that any claims for professional fees incurred before
8 confirmation, any other administrative claims, and any other timely claims not previously filed,
9 scheduled or determined, shall be barred if not filed within thirty days after entry of this order.

10 SIGNED AND DATED ABOVE.

11 _____
12 25921-001\618104.docm
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28